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Paper No. 5

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DEC 11 2001

OFFICE OF PETITIONS

In re Application of	:	
Gregory C. Andrews	:	
Application No. 09/656,076	:	DECISION GRANTING
Filed: September 6, 2000	:	PETITION
Attorney Docket No. 14374.36	:	

This is a decision on the petition styled "Request for Corrected Filing Receipt" filed August 13, 2001, requesting that the above-identified application be accorded a filing date of September 6, 2000, rather than the presently accorded date of September 7, 2000. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on September 6, 2000 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EL394375864US showing a handwritten "date-in" of "9-7-00" as well as a "SLC UTAH 84147 PIONEER POSTAL STORE #7 USPS" receipt stamp of "SEP 6, 2000." The same Express Mail receipt number appears on the original "Transmittal for Patent Application," which includes the Express Mail label number. Additionally, the Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated September 6, 2000. The Express Mail label number also appears on the cover page for the application papers.

In view of the USPS receipt stamp of September 6, 2000 appearing on the same Express Mail label, it is apparent that the handwritten "date-in" of September 7, 2000 was a Postal clerk error. Accordingly, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on September 6, 2000. The petition is granted.

This application is being forwarded to the Office of Initial Patent Examination Division for further processing with a filing date of September 6, 2000 and

issuance of a corrected filing receipt. Thereafter, the application will be forwarded to Technology Center AU 2876 for examination in due course.

Telephone inquiries concerning this matter may be directed to Frances Hicks at (703) 305-8680.

A handwritten signature in cursive script, appearing to read "Beverly M. Flanagan".

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy